IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8158 OF 2006
IN
EXHIBIT NO.22 OF 2006
IN
M.J. PETITION NO.A-1551 OF 2006

WITH

WRIT PETITION NO.8159 OF 2006
IN
EXHIBIT NO.26 OF 2006
IN
M.J. PETITION NO.A-1551 OF 2006

Preeti P. Shah ....Petitioner
V/s.
Paresh V. Shah ....Respondent

Mr.P.S. Dani i/b M/s.Kiran Jain & Co. for the Petitioner.

Smt.Uma G. Wagle for the Respondent.

CORAM : S.J. VAZIFDAR, J.
DATED : 2ND FEBRUARY, 2007.

P.C. :

1. Rule. Rule returnable and heard forthwith.

2. On a plain construction of the order dated 5.12.2006, it is clear that the application was not allowed in terms of prayers (a) and (d). The order accordingly requires a letter to be issued to the School Authorities to ascertain the facts in respect

of prayers (a) and (d). The learned Judge's letter dated 6.12.2006 addressed to the School authorities proceeds on a misconception that the order has been passed in terms of prayer (a).

3. The entire application is yet to be heard. With this clarification Writ Petition No.8159 of 2006 is disposed of.

4. As far as Writ Petition No.8158 of 2006 is concerned, admittedly the rejoinder contained fresh allegations. The rejoinder was served on the Petitioner on 5.10.2006. It was tendered less than a week later on 11.10.2006 in Court. The Petitioner served the sur-rejoinder on the same day. The Petitioner could not have been expected to file the sur-rejoinder any earlier.

5. In the circumstances, the impugned order dated 12.10.2006 is set-aside. The sur-rejoinder shall be taken on record.

6. In view of the unnecessary delay, the learned Judge is requested to dispose of the application as expeditiously as possible.

7. The Family Court shall address a letter to the School Authorities recalling the letter dated 6.12.2006. The School authorities shall be called upon only to furnish the details regarding the procedure or rules, if any, required for adding the name of the Respondent as a father of the child. The school shall also comply with prayer (d). It is clarified that this order calling upon the school to furnish the details of the holidays shall not create any rights in favour of either of the parties.

8. The Rule is made absolute accordingly in both the Writ Petitions.

9. The office is directed to forward the copy of this order to the Family Court forthwith.